

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

FILED

17 AUG 25 AM 9:00

UNITED STATES OF AMERICA

V.

JOEL ESPINOZA

JUDGMENT AFTER REMAND

(For Offenses Committed On or After November 1, 1987)

Case Number: 16CR00664-LAB

JDI DEPUTY

DANIEL CASILLAS, CJA

Defendant's Attorney

REGISTRATION NO. 55494298

☒ Correction of Sentence on Remand (Fed. R. Crim. P. 35); Previously Imposed Sentence is Hereby Set Aside and Vacated

THE DEFENDANT:

☒ pleaded guilty to count(s) ONE OF THE INFORAMTION

☐ was found guilty on count(s)

after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

Title & Section

21 USC 841(a)(1)

Nature of Offense

POSSESSION OF METHAMPHETAMINE WITH INTENT TO
DISTRIBUTE

Count
Number(s)

1

The defendant is sentenced as provided in pages 2 through 4 of this judgment.
The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☒ Count(s) remaining is dismissed on the motion of the United States.

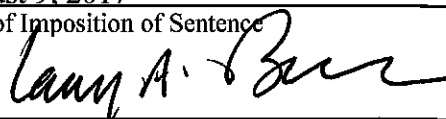
☒ Assessment : \$100.00 - Waived

☒ No fine ☒ Forfeiture pursuant to order filed 9/16/2016, included herein.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

August 9, 2017

Date of Imposition of Sentence



HON. LARRY ALAN BURNS

UNITED STATES DISTRICT JUDGE

16CR00664-LAB

DEFENDANT: JOEL ESPINOZA
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IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of:
120 MONTHS

- ☐ Sentence imposed pursuant to Title 8 USC Section 1326(b).
- ☒ The court makes the following recommendations to the Bureau of Prisons:
PARTICIPATE IN THE RESIDENTIAL DRUG ASSESSMENT PROGRAM.
WESTERN REGION DESIGNATION AND/OR FACILITY THAT HAS VOCATIONAL AND
TRADE PROGRAMS.
- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at _____ A.M. on _____
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ on or before
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

16CR00664-LAB

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SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of:
6 YEARS

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons unless removed from the United States.

The defendant shall not commit another federal, state or local crime.

For offenses committed on or after September 13, 1994:

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 3 drug tests per month during the term of supervision, unless otherwise ordered by court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ☒ The defendant shall cooperate in the collection of a DNA sample from the defendant, pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000, pursuant to 18 USC section 3583(a)(7) and 3583(d).
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check if applicable.)*

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court. The defendant shall also comply with any special conditions imposed.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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SPECIAL CONDITIONS OF SUPERVISION

1. Submit person, property, residence, office or vehicle to a search, conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition. (4TH AMENDMENT WAIVER)
2. Complete GED.
3. Participate in a program of drug or alcohol abuse treatment, including urinalysis or sweat patch testing and counseling, as directed by the probation officer. Allow for reciprocal release of information between the probation officer and the treatment provider. The defendant shall be tested 3 times a month for 6 months and then 3 times a month. The probation officer may modify or terminate testing if no dirty tests are reported.
4. Report all vehicles owned or operated, or in which you have an interest, to the probation officer.
5. Seek and maintain full time employment and/or schooling or a combination of both.

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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 JOEL ESPINOZA,

14 Defendant.
15

Case No. 16cr0664-LAB

PRELIMINARY ORDER
OF CRIMINAL FORFEITURE

16 WHEREAS, pursuant to the terms of the Plea Agreement and Forfeiture
17 Addendum between the parties, the Defendant consented to the forfeiture of all right, title
18 and interest of all properties seized from him in connection with this case pursuant to
19 28 U.S.C. § 2461(c) and 21 U.S.C. §§ 853(a)(1) and (a)(2), which were proceeds of, or
20 were involved in, the violation of 21 U.S.C. § 841(a)(1), as charged in Count 1 of the
21 Information, to which the Defendant entered a guilty plea; and

22 WHEREAS, on or about June 7, 2016, the Defendant pled guilty before Magistrate
23 Judge Ruben B. Brooks to Count 1 of the Information, which plea included consent to
24 forfeiture of all properties seized by law enforcement during the investigation of the
25 offense, including forfeiture of a **Colt, Semi-Automatic, Government Model, .45**
26 **caliber handgun, Serial No. 2859661**; and

27 WHEREAS, on July 15, 2016, this Court accepted Defendant's guilty plea; and
28 //

1 WHEREAS, by virtue of the facts set forth in the Plea Agreement and Forfeiture
2 Addendum, the United States has established the requisite nexus between the forfeited
3 property and the offense set forth in the Information; and

4 WHEREAS, by virtue of Defendant's factual admissions and guilty plea to Count
5 1 of the Information, the United States is now entitled to possession of said property,
6 pursuant to 21 U.S.C. § 853, 18 U.S.C. § 924(d), and 28 U.S.C. § 2461(c); and

7 WHEREAS, pursuant to Rule 32.2(b), the United States having requested the
8 authority to take custody of the Colt, Semi-Automatic, Government Model, .45 caliber
9 handgun, Serial No. 2859661 which is hereby found forfeitable to the United States
10 pursuant to 21 U.S.C. § 853, 18 U.S.C. § 924(d), and 28 U.S.C., § 2461(c); and

11 WHEREAS, the United States, having submitted the Order herein to the Defendant
12 through his attorney of record to review, and no objections having been received;

13 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

14 1. Based upon the factual admissions of the Defendant and his guilty plea, the
15 United States is hereby authorized to take custody and control of the Colt, Semi-
16 Automatic, Government Model, .45 caliber handgun, Serial No. 2859661 and all right,
17 title and interest of Defendant in it is hereby forfeited to the United States for disposition
18 in accordance with the law, subject to the provisions of 21 U.S.C. § 853(n).

19 2. The Colt, Semi-Automatic, Government Model, .45 caliber handgun, Serial
20 No. 2859661 is to be held by the U.S. Immigration and Customs Enforcement ("ICE") in
21 its secure custody and control.

22 3. Pursuant to Rule 32.2(b) and (c), the United States is hereby authorized to
23 begin proceedings consistent with any statutory requirements pertaining to ancillary
24 hearings and rights of third parties. The Court shall conduct ancillary proceedings as the
25 Court deems appropriate only upon the receipt of timely third-party petitions filed with
26 the Court and served upon the United States. The Court may determine any petition
27 without the need for further hearings upon the receipt of the Government's response to
28 any petition. The Court may enter an amended order without further notice to the parties.

1 4. Pursuant to the Attorney General's authority under Section 853(n)(1) of
2 Title 21, United States Code, Rule 32.2(b)(6), Fed. R. Crim. P., and Rule G(4) of the
3 Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, the
4 United States forthwith shall publish for thirty (30) consecutive days on the
5 Government's forfeiture website, www.forfeiture.gov, notice of this Order, notice of the
6 United States' intent to dispose of the property in such manner as the Attorney General
7 may direct, and notice that any person, other than the Defendant, having or claiming a
8 legal interest in the above-listed forfeited property must file a petition with the Court
9 within thirty (30) days of the final publication of notice or of receipt of actual notice,
10 whichever is earlier.

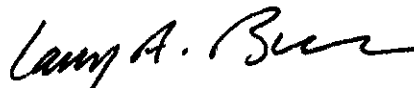
11 5. This notice shall state that the petition shall be for a hearing to adjudicate the
12 validity of the petitioner's alleged interest in the property, shall be signed by the petitioner
13 under penalty of perjury, and shall set forth the nature and extent of the petitioner's right,
14 title or interest in the forfeited property and any additional facts supporting the
15 petitioner's claim and the relief sought.

16 6. The United States may also, to the extent practicable, provide direct written
17 notice to any person known to have alleged an interest in the property that is the subject
18 of the Preliminary Order of Criminal Forfeiture.

19 7. Upon adjudication of all third-party interests, this Court will enter an
20 Amended Order of Criminal Forfeiture pursuant to 21 U.S.C. § 853(n), in which all
21 interests will be addressed.

22 8. Pursuant to Rule 32.2(b)(4), this Order of Criminal Forfeiture shall be made
23 final as to the Defendant at the time of sentencing and is part of the sentence and included
24 in the judgment.

25 DATED: 9.15.16



26
27 Hon. LARRY ALAN BURNS
28 United States District Judge